



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
INSTALLATION MANAGEMENT AGENCY
2511 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202-3926

JUN 27 2006

IMAH-EEO

MEMORANDUM FOR All US Army Installation Management Agency Personnel

**SUBJECT: US Army Installation Management Agency Policy Memorandum #49,
Policy Against Retaliation for Engaging in Protected Equal Employment Opportunity
(EEO) Activity**

1. REFERENCES.

- a. Memorandum, OASA (M&RA), 10 November 2004, subject: Retaliation for Engaging in Protected Equal Employment Opportunity (EEO) Activity (Encl).
- b. Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No Fear Act)

2. PURPOSE. To provide guidance and procedures to comply with Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), the Equal Pay Act and the Rehabilitation Act.

3. APPLICABILITY. This policy applies to all personnel assigned to or under the operational control of IMA in addition to applicants for employments with IMA and former employees of IMA. This policy statement supersedes IMA policy memorandum, 14 February 2006.

4. POLICY.

a. The Equal Employment Opportunity Commission (EEOC) has issued several findings of discrimination against the Department of the Army relative to discrimination based on reprisal or retaliation against individuals who participated in protected EEO activities. The EEOC's rules and regulations clearly state that no person will be subjected to retaliation for participating in any stage of the administrative or judicial proceeding under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA), the Equal Pay Act or the Rehabilitation Act .

b. Supervisors and managers may not fire, demote, harass or otherwise "retaliate" against an employee for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. Supervisors must continue to manage and can not be affected by the protected activities of their employees. The

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legal right to protest against discrimination or to participate in the administrative complaint process as complainants, counselors or witnesses is mandated by applicable laws and regulations. It is imperative that supervisors ensure that their actions are not improperly motivated.


c. Compliance with anti-discrimination statutes permits individuals to freely question suspected discriminatory behavior. Retaliation against those who seek relief from discrimination, if permitted to go unaddressed, would diminish the willingness of employees to speak out or participate in proceedings established to eliminate the unlawful conduct.

d. Voluntary compliance with and effective enforcement ensures that we provide a workplace that does not discourage employees from exercising their rights. Your EEO, legal and civilian personnel/HR advisors are valuable assets who can provide assistance in this area. We must view our commitment to equal employment opportunity as a matter of personal integrity and accountability.

5. PROCEDURES. N/A

6. PROPONENT. The HQ IMA Equal Employment Opportunity Office is the proponent for this policy. POC is Chief, EEO, commercial (703) 602-4308, and DSN 332-4308.

Encl
as



JOHN A. MACDONALD
Brigadier General, USA
Director



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
1901 SOUTH BELL STREET 2ND FLOOR
ARLINGTON, VA 22202-4508

November 10, 2004

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Retaliation for engaging in protected Equal Employment Opportunity (EEO) activity

The purpose of this memorandum is to inform you of the Equal Employment Opportunity Commission's (EEOC) primary basis for finding discrimination, retaliation, and to seek your assistance in assuring a workplace that does not discourage those affected from exercising their rights.

Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Equal Pay Act prohibit retaliation by an employer, employment agency, or labor organization because an individual has engaged in protected activity. Protected activity is that activity which either opposes a practice made unlawful by one of the employment discrimination statutes (the "opposition clause"); or filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under the applicable statute (the "participation clause").

Although some individuals inappropriately allege retaliation as a defense mechanism or as a display of resentment to those who take actions unpopular to those individuals, in many situations, leaders improperly express frustration with individuals who have engaged in protected activities. Often this is expressed in subtle ways, which supervisors may not realize are prohibited. For example, a manager may change his or her manner of speaking to the person, avoid the person, or changes the nature of work assignments. Actions such as these may lead the subject individual, or co-workers, to believe that the change behavior was motivated by the protected activity, thus having a chilling effect on the future exercise of those rights. Supervisors should not be reluctant to manage, but they must, however, ensure that their actions are not improperly motivated or perceived to be so.

Voluntary compliance with an effective enforcement of the anti-discrimination statutes depend in large part on the initiative of individuals to oppose employment practices that they reasonably believe to be unlawful, and to file charges of discrimination. If retaliation for such activities were permitted to go unremedied, it would have a chilling effect upon the willingness of individuals to speak out against employment discrimination or to participate in the EEOC's administrative process or other employment discrimination proceedings.

SUBJECT: Retaliation for engaging in protected Equal Employment Opportunity (EEO) activity

With your support I believe that we can sensitize our leaders to the cause and effect of reprisal allegations, emphasize professional leadership rather than take matters personally, and thus reduce the number of reprisal allegations. Please ensure that your EEO and legal advisors are adequately informing the workforce regarding their obligations concerning the anti-retaliation protections.

For your information, I have enclosed an Information Sheet that dicusses how EEOC adjudicates retaliation claims. The sheet also lists retaliation findings against the Army and the associated costs.

The Point of Contact for further information or questions is Mr. Stanley Kelley, Deputy, Equal Employment Opportunity Compliance and Complaints Review, who may be reached at (703) 607-1448 or by email: kellesl@hqda.army.mil.



Luther L. Santiful
Director of Equal Employment
Opportunity and Civil Rights

Enclosure

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SUBJECT: Retaliation for engaging in protected Equal Employment Opportunity (EEO)
activity

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